IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

Crl.Rev.Pet.No. 3176 of 2007()

CRA.1149/2003 OF ADDL.DISTRICT & SESSIONS JUDGE (ADHOC-III), NORTH PARAVUR

CC.516/2001 of JUDL.MAGISTRATE OF FIRST CLASS-I, ALUVA

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REVN. PETITIONER:

M.R. RAVIKUMAR, S/O. RAMAN,
MALIYEKKAL VEEDU, KURUMASSERY P.O. PARAKADAVU VILLAGE,
ALLUVA TALUK

BY ADV. SRI.RAJIT

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM

2. SREE NARAYANA DHARMA PARIPALANA YOGAM, ALLUVA UNION

BY PUBLIC PROSECUTOR SRI. K.S. SIVAKUMAR
SRI.RANJIT BABU

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 24-08-2007 THE COURT ON 24/08/2007 PASSED THE FOLLOWING:

V.RAMKUMAR, J.

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Crl.R.P. No. 3176 of 2007

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Dated: 24-08-2007

O R D E R

In this Revision filed under Section 397 read with Sec. 401 Cr.P.C. the petitioner who was the accused in C.C. No.516 of 2002 on the file of the J.F.C.M-I, Aluva, challenges the conviction entered and the sentence passed against him for an offence punishable under Sec. 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the Act').

2. I heard the learned counsel for the Revision Petitioner and the learned Public Prosecutor.

3. The learned counsel appearing for the Revision Petitioner re-iterated the contentions in support of the Revision. The courts below have concurrently held that the cheque in question was drawn by the petitioner in favour of the complainant on the drawee bank, that the cheque was validly presented to the bank, that it was dishonoured for reasons which fall under Section 138 of the Act, that the complainant made a demand for payment by a notice in time in accordance with clause (b) of the proviso to Section 138 of the Act and that the Revision Petitioner/accused failed to make the payment within 15 days of receipt of the statutory notice. Both the courts have considered and rejected the defence set up by the revision petitioner while entering the above finding. The said finding has been recorded on an appreciation of the oral and documentary

evidence. I do not find any error, illegality or impropriety in the finding so recorded concurrently by the courts below. The conviction was thus rightly entered against the petitioner.

4. What now survives for consideration is the question as to whether a proper sentence has been imposed on the Revision Petitioner. Having regard to the facts and circumstances of the case, I am, however, inclined to modify the sentence imposed on the revision petitioner. Since the petitioner has already commenced undergoing the sentence imprisonment it is ordered that the imprisonment already undergone by him shall suffice. In addition, he shall pay a sum of Rs. 15,000/- (Rupees fifteen thousand only) to the first respondent/complainant within two months from today by way of compensation under Sec. 357 (3) Cr.P.C.. In case of payment of the amount is impracticable, the revision petitioner shall deposit the amount before the trial court within the aforesaid period. If he commits default, he shall suffer simple imprisonment for one month by way of default sentence. The sum of Rs. 3,000/- (Rupees three thousand only) already deposited by him pursuant to the orders of the lower appellate court shall be refunded to the revision petitioner/accused.

This Revision is disposed of confirming the conviction but modifying the sentence as above.

V. RAMKUMAR, JUDGE.

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